

DOCKET NO.: DBD-CV-18-6028014-S : SUPERIOR COURT

SEAN HEARTY, ZONING ENFORCEMENT : JUDICIAL DISTRICT OF
OFFICER OF THE CITY OF DANBURY, DANBURY
and LISA MORRISSEY, DIRECTOR OF
HEALTH AND HUMAN SERVICES OF THE
CITY OF DANBURY

v. : AT DANBURY

TAILS OF COURAGE, INC. : May 16, 2019

STIPULATION FOR WITHDRAWAL

WHEREAS, Plaintiffs commenced this action by an Amended Verified Complaint dated July 26, 2018, in which the Plaintiffs allege violations of the Danbury Zoning Regulations, Code of Ordinances and Public Health Code, all of which allegations have been denied by the Defendant; and

WHEREAS, as of the date hereof, Defendant has permanently ceased the use of the Property as a dog kennel/animal rescue site or shelter, and has agreed to the immediate revocation of all land use permits issued for such use; and

WHEREAS, the parties agree that, under the circumstances, withdrawal of this matter in accordance with the terms and conditions herein is in the parties' best interests and will render a trial on Plaintiffs' request for a permanent injunction unnecessary; and

WHEREAS, the parties have had the benefit of advice from competent counsel in negotiating and drafting this stipulation and are executing this stipulation freely and voluntarily.

NOW THEREFORE, the parties stipulate and agree to the withdrawal of this action pursuant to the following terms and conditions:

1. Defendant shall not resume operations of the Property as a dog kennel¹/animal rescue site shelter, except for keeping of pets incident to any residential use of the Property.

2. Defendant agrees to the immediate revocation of the site plan waiver issued for the Property on June 11, 2014, as well as of the zoning permit issued for the Property on October 29, 2014.

3. Defendant agrees, on behalf of itself, its successors and assigns, that it shall not seek, and waives and relinquishes any and all rights to obtain, approval from any City of Danbury department, board, commission, or official for any future use of the Property as a dog kennel/animal rescue site/shelter (as those terms are defined or understood under applicable City of Danbury ordinances or regulations). Defendant understands and agrees that this relinquishment and waiver also applies with full force and effect to preclude any application for such approvals filed by any corporation, partnership, association or other entity related to the Defendant.

4. The parties shall not defame, disparage, or publicly criticize the services, business, integrity, veracity or reputation of the parties in any forum or through any medium of communication. This paragraph shall extend to all parties, their employees, subordinates, and representatives. Nothing in this paragraph shall prevent Plaintiffs or Defendant from exercising their powers and duties as conferred upon them by law or from referring to this stipulation, which the parties recognize is a public record.


¹ The use of the word "kennel" is solely for the purposes of its definition in Section 2.B. of the Danbury Zoning Regulations and is not intended to imply that the Property was used as a kennel by any definition contained in other state statutes.

5. Except as otherwise provided herein, Defendant shall retain the right to use the Property as permitted in the Zoning Regulations for the CG-20 zone.

6. In the event that this Court determines that either Defendant or Plaintiff, their successors and assigns, or other entities identified in paragraph 3 above, have violated this stipulation, either party may seek the entry of a judgment by this Court enjoining the violations, and the prevailing party may seek recovery of its costs and reasonable attorney's fees in seeking that relief.

PLAINTIFF,

SEAN HEARTY, ZONING ENFORCEMENT
OFFICER OF THE CITY OF DANBURY


Sean Hearty

PLAINTIFF,


LISA MORRISSEY, DIRECTOR OF HEALTH
AND HUMAN SERVICES OF THE CITY OF
DANBURY


Lisa Morrissey

PLAINTIFFS,

SEAN HEARTY, ZONING ENFORCEMENT
OFFICER OF THE CITY OF DANBURY
LISA MORRISSEY, DIRECTOR OF HEALTH
AND HUMAN SERVICES OF THE CITY OF
DANBURY

By


Daniel E. Casagrande, for
CRAMER & ANDERSON, LLP
30 Main Street, Suite 304
Danbury, CT 06810
Telephone: (203) 744-1234
Facsimile: (203) 730-2500
Email: dcasagrande@crameranderson.com
Juris No. 101252
Their Attorneys

DEFENDANT
TAILS OF COURAGE, INC.

By 

Kristan K. Exner, for
CYNTHIA R. EXNER, LLC
270 Main Street
Danbury, CT 06810
Telephone: (203) 830-4045
Facsimile: (203) 830-4049
Email: kristanexnerlaw@aol.com
Juris No. 424220
Its Counsel

DEFENDANT,
TAILS OF COURAGE, INC.

By 

Neil R. Marcus, for
COHEN & WOLF, P.C.
158 Deer Hill Avenue
Danbury, CT 06810
Telephone: (203) 792-2771
Facsimile: (203) 791-8149
Email: nmarcus@cohenandwolf.com
Juris No. 100137
Its Attorneys

CERTIFICATION

I certify that a copy of the above was or will immediately be mailed or delivered electronically or non-electronically on May 16, 2019 to all counsel and self-represented parties of record and that written consent for electronic delivery was received from all counsel and self-represented parties of record who were or will immediately be electronically served, or to the party against whom the default for failure to appear is claimed:

Neil Marcus, Esq.
Cohen & Wolf, PC
158 Deer Hill Avenue
Danbury, CT 06810
nmarcus@cohenandwolf.com

Kristan K. Exner, Esq.
Cynthia R. Exner, LLC
270 Main St
Danbury, CT 06810
kristanexnerlaw@aol.com



Daniel E. Casagrande